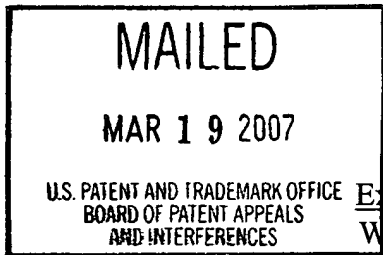


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PAUL RONALD DEAN, LYNN KRISTINA MANN,
WILLIAM SEAN TUCKER and WILLIAM DAVID MAYER

Application 10/618,275

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on November 15, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing is below:

The Examiner's Answer mailed May 4, 2006 does not list the prior art of record being relied upon in the rejections. Page 3 of the examiner's answer contains a section heading titled

"(8) Evidence Relied Upon" that states "[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal". The Manual Of Patent Examining Procedure (MPEP) § 1207.02(A) (8th ed., Rev. 3, August 2005) defines the above heading as follows:

(8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

The examiner's §102(b) rejections are based on U.S. Patents 5,823,495 (Joss et al.) and 5,344,032 (Ramsdell). These references and any other evidence relied upon by the examiner in

the rejections of the appealed claims should be listed under the “(8) Evidence Relied Upon” heading in the examiner’s answer. Correction is required.

Additionally, the examiner is directed to reconsider the Reply Brief filed June 30, 2006, whereby appellants assert that the examiner has not properly addressed and/or rebutted new arguments presented in the Amended Appeal Brief filed February 9, 2006, as required by MPEP § 1207.02(A)(9)(e). See page 2 of Reply Brief.

Accordingly, it is


ORDERED that the application is returned to the Examiner

a) to issue a revised Examiner’s Answer listing the prior art of record and any other evidence being relied upon in the rejection(s) of the appealed claims beneath the Evidence Relied Upon heading,

b) to reconsider the Reply Brief in light of appellants assertion that the examiner has not complied with the requirements of MPEP § 1207.02(A)(9)(e), and respond accordingly, and

c) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

PATRICK J. NOLAN
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Application No. 10/618,275

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PJN/vsh